

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
GREENVILLE DIVISION**

**JOEY L. JUSHAWAY**

**PLAINTIFF**

**V.**

**NO. 4:08CV004-P-D**

**CHRISTOPHER EPPS, et al.**

**DEFENDANTS**

**ORDER**

Upon consideration of the file and records in this action, the court finds that the Report and Recommendation of the United States Magistrate Judge dated November 18, 2008, was on that date duly served by mail upon Plaintiff at his last known address; that more than ten days have elapsed since service of the Report and Recommendation; and that no objection to the Report and Recommendation has been served or filed by any party. The court is of the opinion that the Magistrate Judge's Report and Recommendation should be approved and adopted as the opinion of the court. Therefore, it is

**ORDERED:**

- 1) the Report and Recommendation of the United States Magistrate Judge dated November 18, 2008, is hereby APPROVED and ADOPTED as the opinion of the court;
- 2) Plaintiff's motion to dismiss (docket entry 55) is DENIED;
- 3) Defendants' motion for summary judgment (docket entry 50) is DENIED; and
- 4) this matter shall proceed.

THIS the 5<sup>th</sup> day of December, 2008.

/s/ W. Allen Pepper, Jr.  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE